

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-14, 16-18, and 20-47 are pending in the application, with claims 1, 14, 32, 34, 36, 38, 40 and 41 being the independent claims. Claims 1-13, 16-18 and 32-46 are withdrawn from consideration. Claims 15 and 19 are cancelled. Claim 14 is sought to be amended. Support for the amendment to claim 14 can be found, *e.g.*, at paragraph [0032], page 11 and at paragraph [0149], page 68 of the specification. These changes are believed to introduce no new matter, and their entry is respectfully requested. Applicants respectfully submit that the amendments be entered after final rejection as they place the claims in condition for allowance. 37 C.F.R. § 1.116.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Priority***

The Examiner contends that claims 14-15 and 19-31 are not accorded benefit under 35 U.S.C. 119 and/or 120 of U.S. Provisional Appl. No. 60/463,649, filed April 18, 2003. The Examiner contends that claims 14-15 and 19-31 are not accorded benefit because the claims are rejected under 35 U.S.C. 112, first paragraph, as lacking adequate written description and/or a sufficiently enabling disclosure.

Applicants respectfully disagree with the Examiner. The Examiner rejects the claims under 35 U.S.C. 112, first and second paragraphs on the basis that the claims recite the phrase "encoded by." Solely to advance prosecution, Applicants have replaced "encoded by" with "having the amino acid sequence of." Applicants respectfully believe that this amendment addresses the Examiner's ground for rejection. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

***Objection to the Specification***

The Examiner objected to allegedly improper demarcated trademarks in the specification. The Examiner pointed out that Sepharose® (page 69, line 2 of the specification) and Tween® (page 64, line 3 of the specification) are not indicated as trademarks in this application.

Solely to advance prosecution, and not in acquiescence of the objection, Applicants have made a *bona fide* attempt to locate all trademarks and have amended the specification accordingly. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

***Rejections under 35 U.S.C. § 112, second paragraph***

The Examiner rejected claims 14, 20-31 and 47 under 35 U.S.C. 112, second paragraph, as allegedly indefinite. Specifically, the Examiner alleged that claim 14 is indefinite because it recites "encoded by" in the claim whereas SEQ ID NO:1, 2, 3 or 8 are all amino acid sequences. The Examiner cites various dictionaries in the biological

arts as allegedly supporting that a protein is "encoded by" a nucleotide sequence. Applicants respectfully traverse this rejection.

Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have replaced "encoded by" with "having the amino acid sequence of." Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

***Rejections under 35 U.S.C. § 112, first paragraph (written description)***

The Examiner rejected claims 14, 20-31 and 47 under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully traverse this rejection. Specifically, the Examiner alleged that the specification lacks a written description for claim 14 because it recites "encoded by" in the claim whereas SEQ ID NO:1, 2, 3 or 8 are all amino acid sequences. The Examiner asserts that "it cannot be ascertained how the amino acid sequence of SEQ ID NO:1 encodes a Transferrin Receptor Related Apoptosis Inducing Protein as nucleotide sequences encode proteins" and that therefore, "the claims are drawn to a structurally and functionally diverse genus of Transferrin Receptor Related Apoptosis Inducing Proteins. . ." See Office Action, p. 5. In addition, the Examiner also rejected claims 14, 20-31 and 47 on the ground that allegedly neither the specification nor claims as originally filed provides written support for the "encoded by" language in the claims. See Office Action, p. 11.

Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have replaced "encoded by" with "having the amino acid sequence

of." Applicants respectfully believe that this amendment addresses the Examiner's ground for rejection. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw these rejections.

***Rejections under 35 U.S.C. § 112, first paragraph (enablement)***

The Examiner rejected claims 14, 20-31 and 47 under 35 U.S.C. § 112, first paragraph, as allegedly not enabled. The Examiner rejected the claims on the ground that one of skill in the art could not ascertain how SEQ ID NO:1 encodes a Transferrin Receptor Related Apoptosis Inducing Protein (TRRAIP) as SEQ ID NO:1 is an amino acid sequence and therefore, one of skill would be subject to undue experimentation to make a Transferrin Receptor Related Apoptosis Inducing Protein (TRRAIP) "encoded by" SEQ ID NO:1, 2, 3, or 8 to practice the claimed invention. Applicants respectfully traverse this rejection.

Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have replaced "encoded by" with "having the amino acid sequence of." Applicants respectfully believe that this amendment addresses the Examiner's ground for rejection. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw these rejections.

***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the

Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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